

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

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|--|---|---|-----------------------|-------------------------------------|-----------|---------------------|--------------------------|------------|----------|--------------------------|-------------|--|--------------------------|------------|----------------------------|-------------------------------------|-----------|---|--------------------------|------------|-------------------------|--------------------------|-------------|--|--------------------------|--------------|---|
| Applicant's or agent's file reference VALS 922 B PCT | | FOR FURTHER ACTION | See Form PCT/IPEA/416 | | | | | | | | | | | | | | | | | | | | | | | | |
| International application No. PCT/FR2004/001358 | International filing date (day/month/year) 02.06.2004 | Priority date (day/month/year) 06.06.2003 | | | | | | | | | | | | | | | | | | | | | | | | | |
| International Patent Classification (IPC) or national classification and IPC | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Applicant VALOIS SAS | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p> <p>4. This report contains indications relating to the following items:</p> <table border="0"><tr><td><input checked="" type="checkbox"/></td><td>Box No. I</td><td>Basis of the report</td></tr><tr><td><input type="checkbox"/></td><td>Box No. II</td><td>Priority</td></tr><tr><td><input type="checkbox"/></td><td>Box No. III</td><td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td></tr><tr><td><input type="checkbox"/></td><td>Box No. IV</td><td>Lack of unity of invention</td></tr><tr><td><input checked="" type="checkbox"/></td><td>Box No. V</td><td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td></tr><tr><td><input type="checkbox"/></td><td>Box No. VI</td><td>Certain documents cited</td></tr><tr><td><input type="checkbox"/></td><td>Box No. VII</td><td>Certain defects in the international application</td></tr><tr><td><input type="checkbox"/></td><td>Box No. VIII</td><td>Certain observations on the international application</td></tr></table> | | | | <input checked="" type="checkbox"/> | Box No. I | Basis of the report | <input type="checkbox"/> | Box No. II | Priority | <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability | <input type="checkbox"/> | Box No. IV | Lack of unity of invention | <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement | <input type="checkbox"/> | Box No. VI | Certain documents cited | <input type="checkbox"/> | Box No. VII | Certain defects in the international application | <input type="checkbox"/> | Box No. VIII | Certain observations on the international application |
| <input checked="" type="checkbox"/> | Box No. I | Basis of the report | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> | Box No. II | Priority | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> | Box No. IV | Lack of unity of invention | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> | Box No. VI | Certain documents cited | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> | Box No. VII | Certain defects in the international application | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> | Box No. VIII | Certain observations on the international application | | | | | | | | | | | | | | | | | | | | | | | | | |
| Date of submission of the demand | | Date of completion of this report | | | | | | | | | | | | | | | | | | | | | | | | | |
| Name and mailing address of the IPEA/EP | | Authorized officer | | | | | | | | | | | | | | | | | | | | | | | | | |
| Facsimile No. | | Telephone No. | | | | | | | | | | | | | | | | | | | | | | | | | |

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/FR2004/001358

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____ which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-5 _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. 1-14 _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* _____ received by this Authority on _____
- nos.* _____ received by this Authority on _____
- ☐ the drawings:
- sheets _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/FR2004/001358

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

| | | | |
|-------------------------------|--------|-------------------|-----|
| Novelty (N) | Claims | | YES |
| | Claims | 1-5, 8, 9, 11, 12 | NO |
| Inventive step (IS) | Claims | | YES |
| | Claims | 1-14 | NO |
| Industrial applicability (IA) | Claims | 1-14 | YES |
| | Claims | | NO |

2. Citations and explanations (Rule 70.7)

Reference is made to the following documents:

- D1: EP-A-0 969 069 (BESPAK PLC) 5 January 2000 (2000-01-05)
- D2: US-A-4 447 488 (SPIESS KARL-HEINZ ET AL) 8 May 1984 (1984-05-08)
- D3: US-A-5 177 139 (KLAAR KARLO ET AL) 5 January 1993 (1993-01-05)
- D4: DATABASE CA [Online] CHEMICAL ABSTRACTS SERVICE, COLUMBUS, OHIO, US; CUNDELL, A. M. ET AL: "Effects of microbiocides on the microbiological deterioration of vulcanized natural rubber" XP002312197 downloaded from STN Database, accession no. 1975:99642

1. The present application fails to meet the requirements of PCT Article 33(1), since the subject matter of claims 1 to 5, 8, 9, 11 and 12 does not comply with the criterion of novelty as defined by PCT Article 33(2).

1.1 D1 describes (see claim 1) an aerosol dispensing device for dispensing a pressurised fluid including an alcohol (see claim 5). The device comprises a valve and a valve gasket made of EPDM and a mineral filler including kaolin (see claim 3). The device according to D1 includes an HFC-134A- or HFC-227-type propellant gas (see claim 4).

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Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

Kaolins essentially consist of kaolinite and include quartz and feldspar.

Consequently, claim 3 describes a valve gasket made of EPDM and including a quartz- and kaolinite-based mineral filler (kaolin).

Thus at least claims 1, 8, 9, 11 and 12 are not novel over D1.

1.2 Note that, in general, a gasket may be used as a valve gasket for an aerosol dispenser, unless it must be considered unfit for such use.

A usage feature does not differentiate the product from the prior art.

1.3 D2 describes (see example 3, claim 11) a film that can be used as a gasket and includes EPDM and Sillitin. Claims 1 to 5 are therefore not novel over D2.

1.4 D3 describes (see example 33, claim 10) a strip that can be used as a gasket and includes EPDM and Sillitin. Claims 1 to 5 are therefore not novel over D3.

2. The present application fails to meet the requirements of PCT Article 33(1), since the subject matter of claims 6, 7, 13 and 14 does not involve an inventive step as defined by PCT Article 33(3).

2.1 Chlorinating rubber to improve the properties thereof is known from the prior art (see D4). The present application does not describe an obvious technical or special effect of applying this treatment to a valve gasket. A person skilled in the art would have considered all possible known treatments for improving the properties of the rubber, without an inventive step being involved.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of: Box II

Priority

The subject matter of claims 6, 7, 13 and 14 is not described in the prior application for which priority has been claimed. Consequently, the priority claim for claims 6, 7, 13 and 14 cannot be considered valid.